

# Loan Modifications: Determining What Programs are Available

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# Different Loan Modification Programs

- The availability of loan modification programs depends on the insurer, investor and servicer.
- To determine what workout programs are available, the counselor should determine whether or not the loan is (1) an FHA-insured loan, (2) held by Fannie Mae or Freddie Mac, (3) serviced by a company that participates in Making Home Affordable (MHA) or (4) none of the above.

	<b>MHA HAMP Tier 1</b>	<b>GSE HAMP</b>	<b>MHA HAMP Tier 2</b>	<b>GSE Standard</b>	<b>FHA-HAMP</b>
<b>Loan Owner Restrictions</b>	Not a GSE or Government Loan	Held by Fannie Mae or Freddie Mac	Not a GSE or Government Loan	Held by Fannie Mae or Freddie Mac	Insured by FHA
<b>Servicer Restrictions</b>	Participating Servicer	None	Participating Servicer	None	None
<b>Property Type</b>	1-4 Family Residential	1-4 Family Residential	1-4 Family Residential	1-4 Family Residential	1-4 Family Residential
<b>Origination Date Restrictions</b>	On or before 1/1/2009	On or before 1/1/2009	On or before 1/1/2009	12 months before evaluation date	12 months before evaluation date
<b>Priority</b>	First	First	Second	Second	First
<b>Owner Occupancy</b>	Required	Required	Not Required	Not Required	Required
<b>Effect of Prior Modification</b>	No prior HAMP Tier 1 or Tier 2 Modification (Prior Streamline OK)	No prior GSE HAMP Modification	No prior HAMP Tier 2 Modification (Except Streamline HAMP)	(1) Max of 2 prior mods; and (2) Default may not have arisen in 1st year of mod (unless HAMP mod)	May modify again 24 months later
<b>Subject to NPV Test</b>	Yes	Yes	Yes	No	No
<b>Post Modification DTI Minimum</b>	Always 31%	Always 31%	Servicer Specific: 10-25% (Except Streamline HAMP)	10% (Except Streamlined Offers)	None
<b>Post Modification DTI Maximum</b>			Servicer Specific: 42-55% (Except Streamline HAMP)	55% (Except Streamlined Offers)	40%
<b>Post Modification Interest Rate</b>	Step Rate: As low as to 2%, adjusting up to PMMS.	Step Rate: As low as to 2%, adjusting up to PMMS.	PMMS - 0.5%	<u>If MTMLTV &gt;80%</u> Standard Modification Rate  <u>If MTMLTV &lt;80%</u> Greater of: (1) Contract Rate and (2) Standard Mod Rate	PMMS + 0.25%
<b>Post Mod Term</b>	Up to 40 years	Up to 40 years	40 years	40 years	30 years
<b>Forbearance</b>	<u>Only if Required:</u> Greater of : (1) 30% of UPB and (2) to value	<u>Only if Required:</u> Greater of : (1) 30% of UPB and (2) to value	If pre-mod MTMLTV >115%: Lesser of (1) 30% of UPB and (2) to 115% of value	<u>If MTMLTV &gt;80%</u> Lesser of: (1) 30% of UPB and (2) to 115% of value  <u>If MTMLTV &lt;80%</u> None	<u>Only if Required</u> Up to 30% of UPB (In the form of a Partial Claim)
<b>Monthly P&amp;I Reduction Required</b>	Required	Required	Servicer Specific: ≥0% - ≥10%	≥0% Reduction Required	Not Required

#### Abbreviations

MTMLTV - Mark to Market Loan to Value Ratio; PMMS - Freddie Mac Primary Mortgage Market Survey Rate; DTI - Front End Debt to Income Ratio

# FHA Loans

- FHA is the Federal Housing Administration, which is a branch of HUD.
- Loans insured by FHA are serviced according to FHA's loss mitigation rules - which are described in the resource guide and in the FHA User's Guide on MFY's website.
- You can tell that a loan is an FHA loan by looking at the mortgage, which will have an FHA Case Number on the first page.
- Also, if the mortgage statement includes a charge for MIP or FHA Insurance.

Title Order No.: MA-21441-OR

LOAN #: [REDACTED]

[Space Above This Line For Recording Data]

State of New York

**MORTGAGE**

FHA Case No.
[REDACTED] - 703

MIN: [REDACTED]

THIS MORTGAGE ("Security Instrument") is given on **MARCH 25, 2010.** The Mortgagor is [REDACTED]

whose address is [REDACTED]

("Borrower").

"MERS" is Mortgage Electronic Registration Systems, Inc. MERS is a separate corporation that is acting solely as a nominee for Lender and Lender's successors and assigns. MERS is organized and existing under the laws of Delaware, and has an address and telephone number of 3300 S.W. 34th Avenue, Suite 101, Ocala, FL 34474, P.O. Box 2026, Flint, Michigan 48501-2026, tel. (888) 679-MERS. **FOR PURPOSES OF RECORDING THIS MORTGAGE, MERS IS THE MORTGAGEE OF RECORD.** This Security Instrument is given to **CONTINENTAL HOME LOANS INC., A NEW YORK CORPORATION**

which is organized and

existing under the laws of **NEW YORK,**  
and whose address is **175 PINELAWN RD, STE. 400, MELVILLE, NY 11747**

("Lender").

Borrower owes Lender the principal sum of **\*\*FOUR HUNDRED SIXTY THREE THOUSAND FOUR HUNDRED FIFTY AND NO/100\*\*\*\*\*** Dollars (U.S. **\$463,450.00** ). This debt is evidenced by Borrower's note dated the same date as this Security Instrument ("Note"), which provides for monthly payments, with the full debt, if not paid earlier, due and payable on **APRIL 1, 2040.**

This Security Instrument secures to Lender: (a) the repayment of the debt evidenced by the Note, with interest, and all renewals, extensions and modifications of the Note; (b) the payment of all other sums, with interest, advanced under paragraph 7 to protect the security of this Security Instrument; and (c) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. Borrower does hereby mortgage, grant and convey the Property to MERS (solely as nominee for Lender and Lender's successors in interest) and its successors in interest subject to the terms of this Security Instrument.

Borrower understands and agrees that MERS holds only legal title to the rights granted by Borrower in this Security Instrument, but, if necessary to comply with law or custom, MERS (as nominee for Lender and Lender's successors and assigns) has the right:

- (A) to exercise any or all of those rights, including, but not limited to, the right to foreclose and sell the Property; and
- (B) to take any action required of Lender including, but not limited to, releasing and canceling this Security Instrument.

Borrower gives MERS (solely as nominee for Lender and Lender's successors in interest) rights in the following described property located in **Queens** County, New York:

**SEE ATTACHED SCHEDULE A DESCRIPTION**

# Fannie Mae/Freddie Mac Loans

- Fannie Mae and Freddie Mac are both Government Sponsored Entities (GSEs) that own and insure mortgage loans. GSE loans must be serviced according to detailed guides set forth by the relevant GSE.
- Determine whether the loan is a Fannie or Freddie loan by using the GSEs' websites to look up the mortgage.
- Freddie Mac's and Fannie Mae's lookup tools are available at <http://www.freddie.com/mymortgage> and <https://knowyouroptions.com/loanlookup>, respectively. Both loan lookup tools require the borrower's name, address and the last four digits of his or her Social Security Number.
- The online lookup tools are not always accurate.
- GSE Loans are eligible for HAMP and Standard Modifications.

# MHA Servicers

- Certain companies have agreed to participate in HAMP even for non-GSE loans.
- A list of companies that have agreed to participate is available here: <http://www.makinghomeaffordable.gov/get-assistance/contact-mortgage/Pages/default.aspx>.
- Loans serviced by participating servicers are eligible for HAMP and HAMP Tier 2.
- Notable exceptions to MHA participation include HSBC and Caliber.
- If the loan doesn't meet any of these criteria – i.e. not FHA, not GSE, not MHA – then the servicer may still have an in-house modification program.

# Non-Economic Criteria For Modifications

- Each program has both economic and non-economic criteria. The economic criteria are more complex and change more often – the economic criteria for each program are described in the resource guide.
- The non-economic criteria are easier to determine. In this presentation, we'll discuss:
  - Origination Date
  - Owner Occupancy
  - Prior Modification
  - Prior Trial Plan Default
- Additionally, every program is limited to 1-4 unit residential properties.



# Origination Date Restrictions

The origination date is the date that the loan was made. It refers to the original date of the mortgage (including a consolidation if the mortgage arose from a consolidation). It does not refer to a modification date, if there was a prior modification.

Origination date requirements:

- HAMP – on or before January 1, 2009
- HAMP Tier 2 – on or before January 1, 2009
- GSE Standard Modifications – at least 12 months prior to evaluation
- FHA – at least 12 months prior to evaluation, and borrower must have made at least 4 payments.

# Owner Occupancy Restrictions

- HAMP – must be owner occupied (unless displacement due to military service).
- HAMP Tier 2 – may be owner occupied, family occupied, or a rental (may be vacant if available for rent); may not be a vacation home, second home or abandoned.
- GSE Standard Modifications – any property that is not abandoned or condemned.
- FHA – must be owner occupied.

# Prior Modification Restrictions

- Re-defaults on prior modifications are becoming increasingly common
- Effect of a prior modification:
  - FHA-HAMP: must have been at least 24 months since the last modification.
  - HAMP: cannot have had a prior HAMP or a prior HAMP Tier 2 – prior GSE Standard Modification is fine. Cannot have had a prior HAMP on any other property, as well (even if the borrower has moved).
  - HAMP Tier 2: cannot have had a prior HAMP Tier 2 modification – prior HAMP modification is fine.
  - GSE Standard Modification: maximum of two previous modifications of any sort.

# Prior Trial Plan Default Restrictions

- Default on a trial plan (TPP) may affect rights to future modification. A borrower does not default on a trial plan if the borrower (1) makes all the trial plan payments, but does not receive a permanent modification, (2) makes all the trial plan payments, but does not accept the permanent modification, or (3) doesn't make any of the trial plan payments.
- Effect of a prior trial plan:
  - FHA-HAMP: must show a change in circumstances.
  - HAMP: cannot have had a TPP default under HAMP or HAMP Tier 2 – prior GSE Standard Modification TPP default is ok.
  - HAMP Tier 2: cannot have had a prior HAMP Tier 2 TPP default.
  - GSE Standard Modification: must not have failed a GSE Standard Modification TPP in the last 12 months.